JB2/hl2 2/8/2008

F I L E D
02-08-08
09:03 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
And Related Matters.	Application 06-09-006 (Filed September 6, 2006) Application 06-10-026 (Filed October 23, 2006) Application 06-11-009 (Filed November 20, 2006) Application 06-11-010 (Filed November 22, 2006) Application 07-03-019 (Filed March 19, 2007)

ASSIGNED COMMISSIONER'S RULING AND PHASE 2 SCOPING MEMO

This ruling addresses the Phase 2 non-rate design conservation measures this proceeding will undertake and sets the schedule for comments. The categorization of Phase 2 will be quasi-legislative.

Background

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications: Application (A.) 06-09-006 by Golden State Water Company (Golden State), A.06-10-026 by California Water Service Company (CalWater), A.06-11-009 by Park Water

Company (Park), and A.06-11-010 by Suburban Water Systems (Suburban). San Jose Water Company's conservation rate design application was consolidated with this investigation on May 29, 2007. The first phase of this proceeding addresses rate-related conservation measures, including the parties' increasing block rate and Water Revenue Adjustment Mechanism (WRAM) proposals. The Phase 1 scoping memo issued on March 8, 2007. The scope of Phase 2 was left to a later ruling.

Two prehearing conferences (PHC) and a workshop have been held in this proceeding. The second PHC, held on July 11, 2007, and the August 22, 2007 workshop addressed Phase 2 issues.

Phase 2: Non-Rate Design Conservation Measures

Phase 2 will consider many of the non-rate design conservation measures identified in the Order Instituting Investigation (OII) and the issues proposed by the Division of Ratepayer Advocates (DRA) and the Joint Consumers (the Consumer Federation of America, Disability Rights Advocates, Latino Issues Forum, National Consumer Law Center and The Utility Reform Network). Other issues will be addressed in the utilities' next general rate case (GRC).

The issues to be discussed in comments shall include best management practices, adopting goals, performance metrics and reporting requirements, integrated water resource management, advanced metering products and monthly billing, and water shortage event planning. Issues utilities shall address in their next GRCs include expanding conservation rate designs to other customer classes, financial incentives when conservation goals are met, transition plans from flat rates to metering, increasing break points between tiers, setting the first tier break point closer to average winter consumption.

Although the issues addressed in this phase of the proceeding are extensive, it will be helpful to get comment on the breadth of issues, even though the Commission may not make findings on all of them. I encourage parties to continue the informal discussions begun at the workshop and to coordinate on filings when possible. Parties shall address the following questions in their comments:

Best Management Practices

Section 2714.5 of the Public Utilities Code includes a requirement that the Commission should submit a report to the state legislature by June 30, 2008 indicating progress made on implementation of the Commission's Water Action Plan (WAP). One of the conservation objectives identified in the WAP calls for Class A and B water utilities to participate in the California Urban Water Conservation Council (CUWCC) and to implement the CUWCC Best Management Practices (BMP).

- Should the Commission further its water conservation objectives by requiring Class A water utilities to fully implement all 14 Best Management Practices (BMPs)?[1] Do the CUWCC's cost-benefit exemptions from BMP compliance (not cost-effective, no legal authority, budget constraints) justify non-compliance with certain BMPs? Should BMPs be considered minimum standards? By what date should all BMPs be implemented by Class A water utilities?

[1] The California Urban Water Conservation Council (CUWCC) defines BMPs on their website at this link: http://www.cuwcc.com/m_definitions.lasso. The CUWCC is continuously considering refinements of and additions to the BMPs. The Commission wants to allow Class A water utilities flexibility in adopting changes and additions to the BMPs and encourages the utilities to adopt revised and new BMPs, subject to Commission review of the suitability of those changes.

- Given the success of rebate programs in promoting energy efficiency, should utilities be required to participate in or provide rebate programs, including ultra low flush toilets and water conserving appliances? Landscaping?
- Recognizing the fact that Class B, C, and D water utilities are not respondents to this proceeding, do any of the parties believe that Class B, C, and D water utilities should participate in the CUWCC? If Class B water utilities should participate in the CUWCC, when should Class B water utilities implement all BMPs? Any reason why they should not participate in CUWCC?
- Does the Commission have the authority to order Class A water utilities to transition from flat-rate water bills to metered service?[2] What timeframe would be feasible?
- Should Class A water utilities provide monthly bills? Are there any justifications for remaining with bi-monthly billing? What are the costs and benefits of listing conservation charges as line items on customers' bills?
- Should Class A water utilities phase-in advanced meters? When? How? Please list any advanced metering technology which may be effective and economical.

Pub. Util. Code § 781[3] requires a showing that metering will be cost-effective, result in a significant reduction in water use and not impose

[2] Generally, the California Water Code requires all new connections (*i.e.*, those that are part of systems with greater than 15 connections or systems with at least 25 year long residents) since 1/1/92 to be metered. More recent requirements for metering apply to "urban water suppliers" (defined as a water provider with more than 3,000 customers or supplying more than 3,000 acre-feet annually). See the following link to the California Water code, especially Section 10617, for more details: http://www.legaltips.org/california/california_water_code/. Also, the report to the state legislature on WAP implementation will address conservation policies, which includes the deployment of meters by private water utilities.

[3] Modifications to this section of the code are being considered in Sacramento.

unreasonable costs. Should that showing be made in Class A water utilities' GRCs? The State Water Resources Control Board (SWRCB) estimates that California has the potential to recycle an additional 1,400,000 to 1,670,000 acre-feet of water per year of water beyond 2002 by the year 2030.[4] The SWRCB also notes that there are limited state funds available for financial assistance in water recycling projects. Investor-owned water utilities in California nonetheless should be evaluating the feasibility of increasing substantially the proportion of their water supply derived from recycled water. The Department of Water Resources estimates that recycling water in California can cost between $300 to $1,300 per acre-foot, depending on local conditions.[5]

- What are Class A water utilities currently doing to increase their recycled water capability? What technologies and techniques might increase that capability? Are there barriers to increasing this capability? If so, how could those barriers be overcome?
- What are the costs to Class A water utilities of providing recycled water? Should a general objective for percentage of total water supply derived from recycled water be established for Class A water utilities? If yes, what would be a feasible objective? What time frame would be feasible? What factors should influence those targets?

Adopting Goals, Performance Metrics and Reporting Requirements for Conservation

- What annual percentage reduction in consumption is a reasonable water conservation goal for all Class A water

[4] State Water Resources Control Board, Strategic Plan: January 2007- December 2008, 1/18/07 (http://www.swrcb.ca.gov/recycling/docs/strategicplan2007.pdf).

[5] Department of Water Resources, 2005 Water Plan, Chapter 16: "Recycled Municipal Water," p. 2 (http://www.waterplan.water.ca.gov/docs/cwpu2005/vol2/v2ch16.pdf).

utilities with price and non-price conservation programs? Is a 1-2% reduction in each district and for each customer class a reasonable goal? Is it reasonable to rely on the Pacific Institute's analysis and the goals of municipal utilities in setting a targeted annual reduction? Should the Commission rely on other analyses and goals? Should the goal be expressed as a per capita, per customer or overall reduction in consumption?

- Would it be sufficient to simply set a general conservation objective, as a percentage, for all CPUC-jurisdiction water utilities? Or should the percentage objective be fine-tuned by other factors reflecting the unique characteristics of the water utilities (*e.g.*, previous conservation efforts; income level, class-of-service; geography; climate; percentage of new development; other factors)?
- How should the Commission track water conservation achieved by the adoption of increasing block rates and other water conservation measures? Should CUWCC web-based reporting be used to track conservation? Is the WRAM sufficient to track whether water conservation rates reduce consumption? Are there difficulties determining the impact of rate versus non-rate conservation mechanisms? Is there enough data from water meters as they currently exist to track water conservation rates?
- Should the Commission adopt specific conservation goals, performance metrics, and reporting requirements for non-price conservation programs? How would the Commission know what was an appropriate level to attain? Cite examples that back up your assertions. What time frame would be needed to ensure accurate and reliable data? Should the Commission encourage consistent reporting of consumption data and weather-adjusted data? Could external factors be accounted for e.g. hot/dry season, El Nino winter, income level, lot size, etc.? What do other states and/or agencies do?
- Should Class A water utilities be required to perform and submit the results of a water loss audit to the Commission, using the free Water Audit Software developed by the

AWWA? Will compliance with CUWCC BMP 3 and AWWA M 36 manual for unaccounted water adequately reduce water losses for Class A water utilities?

- Should companies track the "avoided cost" that may result from conservation and who should benefit from this "avoided cost?" Should both forecasted as well as actual avoided cost be calculated? Should the marginal supply be identified to help with long-term planning?

Integrated Water Resource Management (IWRM)

- Are there social, environmental and economic benefits to IWRM?
- What are the relevant and important aspects of IWRM to your utility operation?
- Is it possible for retailers (not wholesale water suppliers) to fully implement IWRM?
- Should the Commission direct the utilities to regard water supply as if it were an asset with regards to price, location and what legal agreement the water is supplied under? Should the water management plan filed in GRCs be refined to incorporate a long-term procurement plan, including appropriate water conservation and efficiency estimates, and identify investments required to accelerate cost-effective conservation investments, fund installation of water meters capable of measuring water use by individual users and where appropriate the installation of advanced metering technologies? Are there other potential areas for refining the water management plan?
- Is it necessary for utilities to implement IWRM with regards to supply to know the avoided costs of conservation?

Water Shortage Event Planning Including Drought Planning

- What are the criteria for what constitutes a drought, i.e., what would trigger voluntary rationing versus mandatory rationing?

- Would different levels of drought require different restrictions? What can be learned from other states and/or agencies?
- What would be the type of restrictions at each level? What would be the penalties for customers that don't comply?
- What would be the criteria to end the drought restrictions?
- Are there any possible areas for refinement of Standard Practice U-40-W, Instructions for Water Conservation, Rationing and Service Connection Moratoria?
- What other event besides drought should trigger rationing? List and define all events that this section should cover, e.g., drought, shortage due to natural disaster, shortage due to a permanent and material change in the amount of water provider from a wholesaler. (This list is not exhaustive.)
- How can excessive consumption be defined? If the Commission establishes excessive usage as a function or percentage above baseline usage, how should baseline usage be established?
    - Should it be per capita based on an average of the residences in a community? or,
    - Should the baseline be determined by similarly-situated individuals (taking into account: water users in household, size of house/bathrooms, size of irrigated landscape, etc.)? or,
    - Should the baseline be based on the individual's prior usage?
- Should customers with excessive water consumption be penalized in some way? Conversely, should customers that conserve large amounts of water be rewarded?
- Should other factors influencing water consumption, such as weather and income level, be taken into consideration when setting penalties and/or rewards?
- Should the utilities be required to enter into water banking agreements? Should water banking be limited to unique circumstances? Are laws needed to encourage this practice?

Low-income Customers

- How should the Commission measure the impact of conservation programs on low-income consumers, including those with disabilities and those in multi-family units? Can Class A water utilities identify multi-family units? Should the Commission encourage data collection to facilitate identification of multi-family units? What time frame would be feasible?
- How can residents of multi-family units benefit from water conservation programs?
- How will existing low-income rate assistance program discounts be preserved with the adoption of conservation rate designs? Should flat-rate low-income assistance discounts increase with household size? Should other adjustments be made to low-income assistance discounts?
- Should Class A water utilities coordinate with the regulated energy utilities, municipalities and/or community based organizations in the provision of conservation information and tools to low-income customers, persons with disabilities, and residents of multi-family units? If so, what form would this coordination take? How can the Commission facilitate this endeavor?

Energy Savings (GHG issues)

The parties shall address the following:

- Have Class A water utilities reviewed their water systems for opportunities to reduce energy consumption? What have they learned?
- Have Class A water utilities utilized variable frequency drives (VFDs)? What have they learned?
- Have Class A water utilities installed supervisory control and data acquisition systems (SCADA)? What have they learned?
- Have Class A water utilities reviewed their water systems for opportunities to reduce demand during peak energy periods? What actions have they taken?

- Water utilities which are considering replacement of existing water treatment facilities to meet new and more stringent treatment standards might determine that the tariff makes it advantageous to first build and then retrofit for demand reduction, rather than simply installing facilities which would immediately reduce demand. The tariff allegedly requires the utility to first operate the new facilities for one year in order to determine baseline energy usage, and then retrofit the facilities to treat more water off-peak. Is this an accurate assessment of the current tariff? Have the Class A water utilities encountered this potential disincentive and, if yes, what action did they take?
- Have Class A water utilities reviewed their water systems for opportunities to deploy time of use (TOU) water meters? What have they learned?
- What could be done to encourage Class A water utilities to fully deploy TOU meters for residential customers? For commercial and industrial customers?
- Have Class A water utilities discussed with their respective energy providers the possibility of receiving credit for self-generation? If yes, what was the result of those discussions?
- Should the Commission require water utilities to join the California Climate Action Registry? What timeframe would be feasible?

Remaining Rate Design Issues Addressed in GRCs

Rate design issues will be raised in the utilities' next GRCs, since the issues are company-specific. The utilities shall address specific metering proposals, proposals concerning financial incentives for meeting conservation goals, transition plans from flat rates to metering, increasing breakpoints between tiers, and criteria for setting the first tier break point in their next GRCs. The companies shall propose increasing block rates for non-residential customers in their next GRCs.

The WAP stated the Commission would consider:

1) Financial rewards for utility management when conservation goals are met, and financial penalties when conservation goals are not met.
2) An opportunity for higher earnings resulting from successful conservation efforts, and a sharing of savings with customers.

In the GRCs the parties shall propose factors the Commission should consider to evaluate programs addressing financial rewards and penalties.

Categorization and Hearings

Phase 2's categorization will be changed to quasi-legislative. Phase 1 will run concurrently and will remain ratesetting. This phase of the proceeding is considering policy issues and it is not anticipated that hearings will be necessary.

Timetable

Pursuant to the Order Instituting Investigation (OII), the assigned Commissioner and/or the administrative law judge may revise the schedule. The schedule for Phase 2 is set as follows:

April 1, 2008	Comments filed
April 29, 2008	Reply comments and requests for legislative and adjudicatory hearings filed.
TBD	Mailing of proposed decision, first possible Commission consideration of proposed decision.

Presiding Officer

Commissioner John A. Bohn shall be the presiding officer for Phase 2.

Rules Governing *Ex Parte* Communications

In Phase 2, no *ex parte* restrictions or reporting are required, pursuant to Rule 8.2(a).

IT IS RULED that the scope of and the timetable for this proceeding are as set forth herein.

Dated February 8, 2008, at San Francisco, California.

/s/ JOHN A. BOHN
John A. Bohn
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated February 8, 2008, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis